

**CALENDAR ITEM
C45**

A 50

04/05/16

S 27

W 24665

D. Simpkin

**CONSIDER ACCEPTANCE OF AN OFFER OF DEDICATION
OF LATERAL ACCESS EASEMENT**

PARTY THAT WILL RECORD OFFER OF DEDICATION:

Malibu Realty, LLC

PARTY TO ACCEPT EASEMENT:

California State Lands Commission

INTERESTED PARTY:

California Coastal Commission

BACKGROUND:

Since the adoption of the Constitution of California of 1879, access to California's public trust waterways has been a mandated responsibility of State government. The vast majority of the hundreds of title settlement agreements the State Lands Commission (Commission) has entered into since its inception in 1938 have included the provision of public access to the waterways involved.

In the 1960's, an organization with the acronym COAAST (Citizens Organized to Acquire Access to State Tidelands) began a "Save the Coast" campaign that eventually resulted in the adoption of Proposition 20 by the State's voters in 1972. Since the Legislature's passage of the Coastal Act in 1976, more than 1,500 offers to dedicate (OTDs) public access easements, both vertical and lateral (i.e., to and along the coast), have been made involving California's 1,100-mile coastline.

These OTDs were formally made and recorded by property owners as a condition of approval of permits to develop within the Coastal Zone. These OTDs have a 21-year life from the date of recording and will expire if not formally accepted by a public agency within that time period.

The OTDs were required to ensure protection of existing public rights of use and to mitigate and compensate for the impacts to public access caused by development. In many cases, the location of the boundary between the privately-

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owned uplands and the publicly-owned tidelands is unsettled. Furthermore, the public may have acquired rights of use through the doctrine of implied dedication and have rights of recreational use in any area subject to the public easement in navigable waters. Therefore, these OTDs may describe and include areas already having public rights of use or public ownership. Acceptance by the Commission of the OTDs does not change the nature of the existing rights, but removes any question of the public's right of use of the area described.

The California Coastal Commission (CCC) has requested that the State Lands Commission review and, where appropriate, accept OTDs of lateral access easements involving sandy beach areas lying adjacent to tidelands managed by the Commission. Commission staff is involved in an ongoing process with the CCC to analyze the OTDs and determine which offers the Commission should accept.

The Commission has already authorized the acceptance of more than 280 OTDs along the coast of California between April 2, 1991, and April 23, 2015, the majority of which are located in the Malibu area of Los Angeles County.

The Commission's liability for holding these lateral parcels is limited by section 831.2 of the California Government Code, which provides that a public entity is not liable for injury caused by a natural condition of any unimproved public property. There should be no maintenance and little management required for these easements because of the lack of improvements on the parcels and because the easements simply provide the public with the right to access and use the beach.

OTDs generally involve sandy beach areas lying between the private structure built on the upper beach and the tidelands which are already State-owned and under the Commission's jurisdiction. Therefore, these areas are not only appurtenant to the Commission's existing area of ownership and jurisdiction, but are, for all practical public use purposes, integral to it. Staff reviewed the offer of the property interest shown on the attached Exhibit B (Subject Property) and a proposed draft of the OTD for the Subject Property and recommends that the Commission authorize the Executive Officer to approve and accept the OTD if and when it is recorded with the Los Angeles County recorder's office.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, and 6301.

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Public Trust and State's Best Interests Analysis:

The proposed action involves acceptance of an OTD to secure a public lateral access easement across a privately held parcel. Public access easements are vital tools for ensuring California's coastline remains open and accessible to the public. The proposed OTD will run the entire width of the Subject Property from the Mean High Tide Line to the deck stringline. The OTD has not yet been recorded by Malibu Realty, LLC, but Commission staff has reviewed the proposed document and believes it is adequate. Upon recordation, the Commission's Executive Officer will execute and record a Certificate of Acceptance, accepting the easement on the Subject Property. Once accepted, the easement will create 245 lineal feet of public access in combination with an adjacent amended public access easement. That amended public access easement is subject to consideration under a separate agenda item.

The addition of this easement will address a gap in the existing lateral access along this portion of the beach, creating greater certainty for the public that the beach is open to the public. As such, the Commission staff believes that the proposed action is consistent with and promotes the public trust and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. On July 20, 2014, the CCC granted Coastal Development Permit (CDP) 5-84-791-A1, which included the recombination of two beachfront parcels (Assessor's Parcel Numbers [APNs] 4451-006-036 and 037) adjacent to 22230 Pacific Coast Highway at Carbon Beach in the City of Malibu. The CDP requires recordation of a new offer to dedicate (OTD) lateral public access easement on an adjacent parcel (APN 4451-006-018).
2. Staff recommends acceptance of the OTD as it promotes Strategy 1.3 of the Commission's Strategic Plan to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
3. The staff recommends that the Commission find that the subject acceptance of an offer of dedication does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

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EXHIBITS:

- A. Location and Site Map
- B. Property Information

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the subject acceptance of an offer of dedication is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the acceptance of the Irrevocable Offer to Dedicate Public Access Easement is consistent with the common law public trust doctrine and is in the best interests of the State.

AUTHORIZATION:

1. Approve and authorize the acceptance of the Irrevocable Offer to Dedicate Public Access Easement as a condition of Coastal Development Permit 5-84-791-A1 over Assessor's Parcel Number 4451-006-018.
2. Authorize the execution, acknowledgment, and recordation of the acceptance and consent to record on behalf of the California State Lands Commission, in substantially the form of the copy of such document on file in the Sacramento office of the Commission.

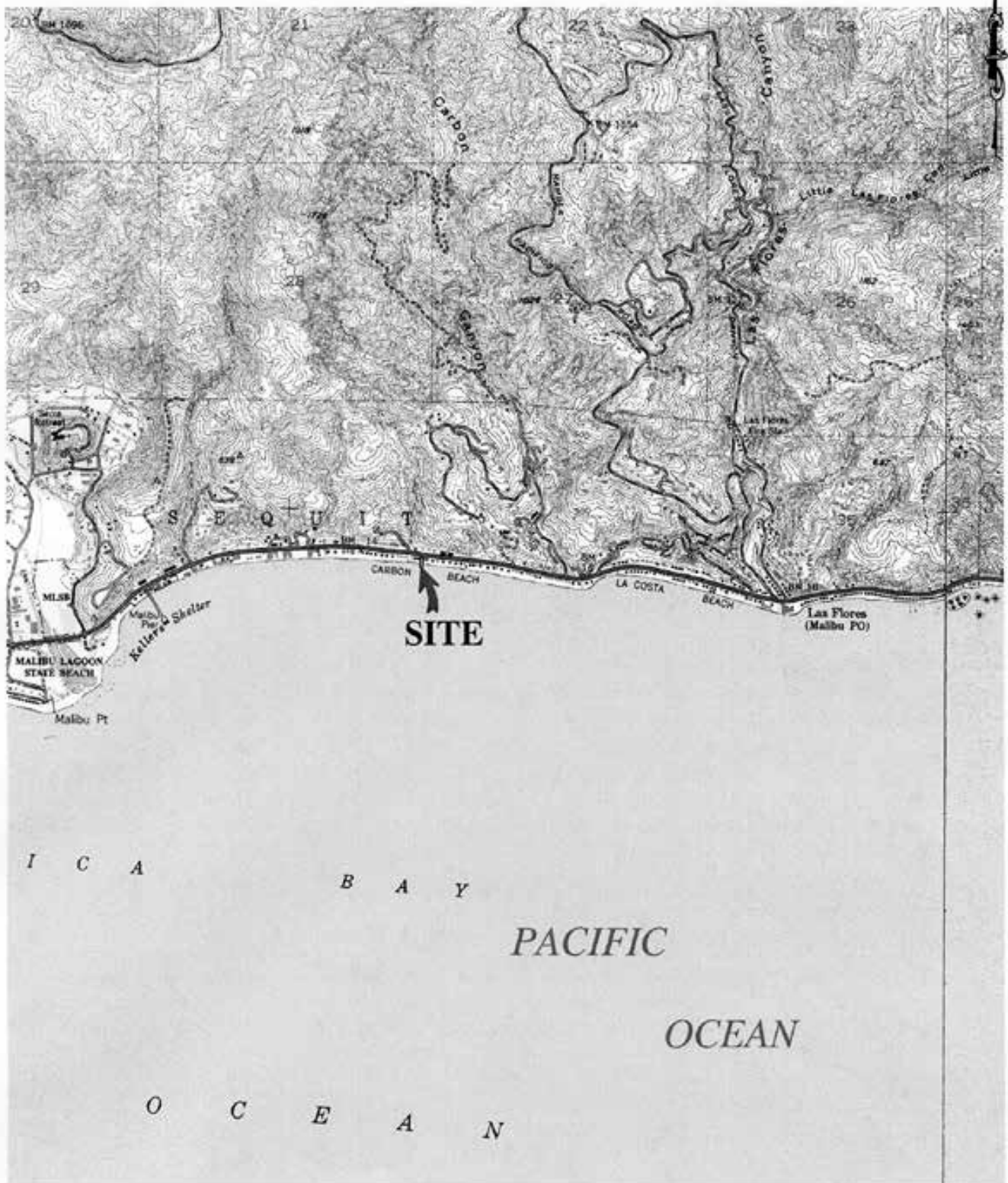


EXHIBIT A

TS 02/22/16

W 24665
22230 PACIFIC COAST HIGHWAY,
MALIBU, LOS ANGELES COUNTY

CALIFORNIA STATE
LANDS COMMISSION



LATERAL PUBLIC ACCESS EASEMENT
PER CALIFORNIA COASTAL COMMISSION
RESOLUTION CDP 5-84-791-A1 AND A2

OVER A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, AS CONFIRMED TO MATTHEW KELLER, IN THE CITY OF MALIBU, LOS ANGELES COUNTY, STATE OF CALIFORNIA, BY PATENT RECORDED IN BOOK 1 PAGE 407 ET SEQ., OF PATENTS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE 80 FOOT STRIP OF LAND DESCRIBED IN THE DEED FROM T. R. CADWALADER, TRUSTEE, ET AL, TO THE STATE OF CALIFORNIA, RECORDED IN BOOK 15228 PAGE 342, OFFICIAL RECORDS, OF SAID COUNTY, SAID POINT OF BEGINNING BEING IN SAID SOUTHERLY LINE DISTANT SOUTH 83 DEGREES 49 MINUTES 30 SECONDS EAST 1025.71 FEET, MEASURED ALONG SAID SOUTHERLY LINE FROM A POINT BEARING SOUTH 6 DEGREES 10 MINUTES 30 SECONDS WEST 40 FEET FROM ENGINEER'S CENTER LINE STATION 989 PLUS 65.17 AT THE WESTERLY EXTREMITY OF THAT CERTAIN COURSE DESCRIBED IN SAID DEED AS SOUTH 83 DEGREES 49 MINUTES 30 SECONDS EAST 55 FEET, MORE OR LESS, TO A POINT IN THE WESTERLY LINE OF THE PARCEL OF LAND DESCRIBED IN A DEED TO W. W. TOUCHSTONE AND CATHERINE C. TOUCHSTONE, HUSBAND AND WIFE, RECORDED IN BOOK 13445 PAGE 46, OFFICIAL RECORDS;

THENCE SOUTH 6 DEGREES 10 MINUTES 30 SECONDS WEST ALONG SAID WESTERLY LINE TO THE ORDINARY HIGH TIDE OF THE PACIFIC OCEAN;

THENCE WESTERLY ALONG SAID TIDE LINE TO THE INTERSECTION OF SAID TIDE LINE AND THAT LINE WHICH BEARS SOUTH 6 DEGREES 10 MINUTES 30 SECONDS WEST FROM SAID POINT OF BEGINNING;

THENCE NORTH 6 DEGREES 10 MINUTES 30 SECONDS EAST TO SAID POINT OF BEGINNING.

LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE;

BEGINNING AT A POINT IN WESTERLY LINE OF THE ABOVE DESCRIBED PROPERTY BEING SOUTH 06 DEGREES 10 MINUTES 30 SECONDS WEST 96.51 FEET FROM THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF PACIFIC COAST HIGHWAY WITH SAID WESTERLY LINE;

THENCE SOUTH 84 DEGREES 43 MINUTES 26 SECONDS EAST 55.56 FEET TO THE EASTERLY LINE OF SAID PROPERTY.

EXCEPT ALL LITTORAL RIGHTS WITH FULL AND EXCLUSIVE RIGHTS TO PRESERVE AND PROTECT SAID LITTORAL RIGHTS AS CONTAINED IN THE ABOVE DEED.

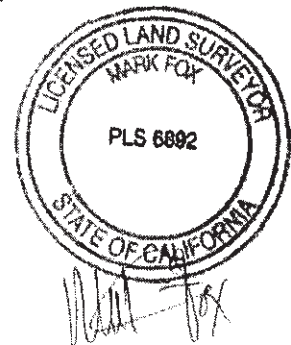
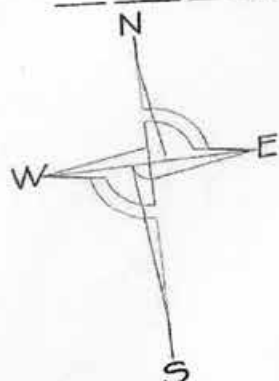
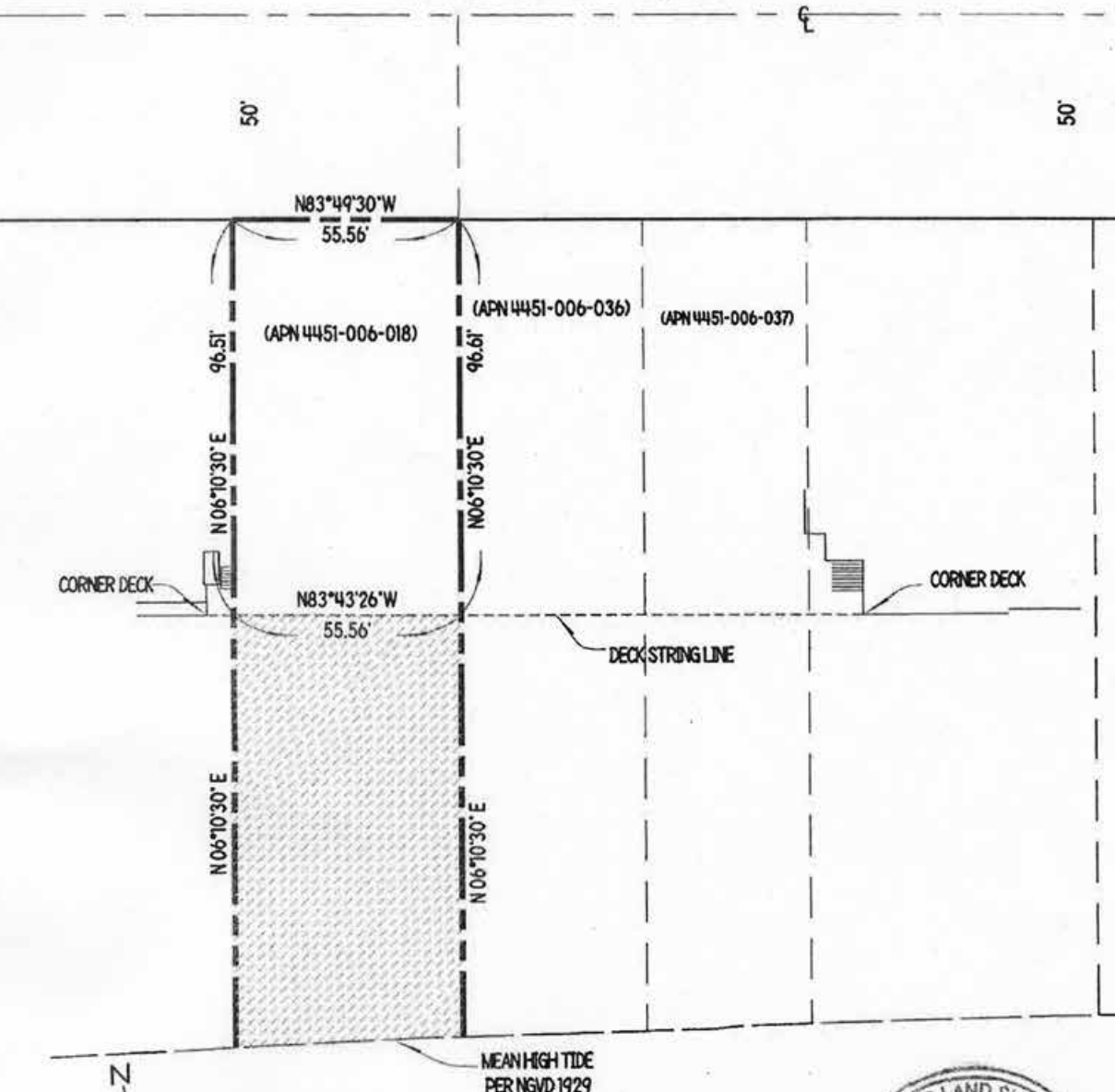


EXHIBIT C

PACIFIC COAST HIGHWAY



DATE 02-29-16
SCALE: 1" = 40'

PACIFIC OCEAN



LATERAL PUBLIC ACCESS EASEMENT PER
CALIFORNIA COASTAL COMMISSION
RESOLUTION CDP 5-84-791-A1 AND A2

